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Dec. Dig. § 148.* 10 Va.-W. Va. Enc. Dig. 131; 14 Va.-W. Va. Enc. Dig. 743; 15 Va.-W. Va. Enc. Dig. 707.]

For other definitions, see Words and Phrases, vol. 5, pp. 4616-4618.]

3. Equity (§ 148*)—Bill—Multifariousness—Independent Claims.—The bill alleged that B. owned a 60-acre tract which he conveyed to the predecessor in title of complainant's father from whom complainant ultimately derived title by a deed recorded prior to January 1, 1901, and that the land was improperly assessed for taxes against complainant's father for the year 1901 and was sold for taxes claimed to be due from the father, and that defendant lumber company became the purchaser under a tax deed made by the clerk. The bill further alleged that defendant D. on September 18, 1908, filed an ex parte petition under the statute providing for proving recorded papers before a commissioner, to set up title in himself to the 60 acres under a deed from B. and, by intermediate conveyances, to defendant D. by conveyance dated June 23, 1903, and that none of such deeds were intended to include the 60-acre tract owned by complainant, and the prayer was that the lumber company, defendant D., and others be made parties defendant and a decree entered declaring the tax deed to the lumber company void, and an order entered restraining defendant D. from proceeding further in his petition before the commissioner. Held, that the bill was demurrable as multifarious, as joining distinct claims against several defendants.

[Ed. Note.—For other cases, see Equity, Cent. Dig. §§ 341-367; Dec. Dig. § 148.* 10 Va.-W. Va. Enc. Dig. 133; 14 Va.-W. Va. Enc. Dig. 743; 15 Va.-W. Va. Enc. Dig. 707.]

Appeal from Circuit Court, Buchanan County.

Suits by one Justus and others against W. L. Dennis and against the W. M. Ritter Lumber Company. Decree for complainant, and defendants appeal. Reversed.

S. M. B. Coulling, of Tazewell, *M. O. Litz*, of Welch, and *J. W. Flannagan, Jr.*, of Grundy, for appellants.

Chase & Daugherty and *A. A. Skeen*, all of Clintwood, for appellees.

BOWMAN *v.* FIRST NAT. BANK OF BROADWAY.

Nov. 20, 1913.

[80 S. E. 95.]

1. Action (§ 40*)—Causes of Action—Joinder—Indorser and Guarantor of Note.—Under the rule that demands against the same party may be joined when they are all of the same nature and the same

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

judgment may be given as to each, though the pleas may be different, a cause of action against defendant as indorser of notes sued on may be joined with another cause of action against him as guarantor of the same notes.

[Ed. Note.—For other cases, see Action, Cent. Dig. §§ 320-327; Dec. Dig. § 40.* 1 Va.-W. Va. Enc. Dig. 135; 14 Va.-W. Va. Enc. Dig. 11; 15 Va.-W. Va. Enc. Dig. 14.]

2. Pleading (§ 246*)—Declaration—Amendment—Different Cause of Action.—Since plaintiff, in an action on notes against defendant as indorser, might originally have charged defendant both as indorser and guarantor, it was not error to permit an amendment of the declaration, adding counts against defendant as guarantor of the same notes, after a plea denying defendant's liability as indorser.

[Ed. Note.—For other cases, see Pleading, Cent. Dig. §§ 676-683; Dec. Dig. § 246.* 1 Va.-W. Va. Enc. Dig. 346; 14 Va.-W. Va. Enc. Dig. 47; 15 Va.-W. Va. Enc. Dig. 42.]

3. Pleading (§ 248*)—Amendment—Different Cause of Action.—Where an amended declaration asserts rights or claims arising out of the same transaction, act, agreement, or obligation on which the original declaration is founded, the amendment will not be regarded as for a new cause of action, however great may be the difference in the form of liability asserted.

[Ed. Note.—For other cases, see Pleading, Cent. Dig. §§ 686, 687, 689-706, 708½, 709; Dec. Dig. § 248.* 1 Va.-W. Va. Enc. Dig. 346; 14 Va.-W. Va. Enc. Dig. 47; 15 Va.-W. Va. Enc. Dig. 42.]

4. Bills and Notes (§ 467*)—Declaration—Ownership of Debt.—Where, in an action against defendant as guarantor of certain notes, the declaration averred that the notes were payable to defendant's order, and then there followed an averment that defendant, for a valuable consideration, undertook, promised, and guaranteed payment of the notes to plaintiff, there was a sufficient averment that plaintiff was the owner or legal holder of the notes so guaranteed.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. §§ 1480-1488, 1490, 1491; Dec. Dig. § 467.* 2 Va.-W. Va. Enc. Dig. 486; 14 Va.-W. Va. Enc. Dig. 164; 15 Va.-W. Va. Enc. Dig. 133.]

5. Bills and Notes (§ 516*)—Guaranty—Action against Guarantor—Evidence.—In an action against defendant as guarantor of certain notes, evidence held to warrant a verdict for plaintiff.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. §§ 1800-1806; Dec. Dig. § 516.* 6 Va.-W. Va. Enc. Dig. 782; 14 Va.-W. Va. Enc. Dig. 500; 15 Va.-W. Va. Enc. Dig. 449.]

6. Principal and Agent (§ 120*)—Signature of Notes—Authority—Evidence.—Where, in an action on notes alleged to have been signed

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by defendant's father, since deceased, who it was claimed had signed derendant's name as indorser, there were facts and circumstances proved indicating that defendant had full knowledge of the use his father was making of his name, evidence of about 50 other notes negotiated in and through plaintiff bank by defendant's father, bearing defendant's name either as maker or indorser, was admissible to show that the father had authority to indorse defendant's name on the notes sued on.

[Ed. Note.—For other cases, see Principal and Agent, Cent. Dig. §§ 402-412; Dec. Dig. § 120.* 1 Va.-W. Va. Enc. Dig. 282; 14 Va.-W. Va. Enc. Dig. 37; 15 Va.-W. Va. Enc. Dig. 35.]

7. Witnesses (§ 344*)—Credibility—Reputation.—That plaintiff bank in an action on certain notes, after its cashier had testified, introduced evidence of his general reputation for truth did not entitle defendant to prove that the cashier sometimes took advantage of his position to lend his own money instead of that of the bank to persons who applied to the bank for loans.

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. §§ 1120, 1125; Dec. Dig. § 344.* 13 Va.-W. Va. Enc. Dig. 973; 14 Va.-W. Va. Enc. Dig. 1101; 15 Va.-W. Va. Enc. Dig. 1099.]

8. Appeal and Error (§ 692*)—Record—Prejudice—Rulings on Evidence.—A bill of exceptions to the exclusion of evidence is insufficient to present a question for review where it does not show an offer of proof indicating the answer expected.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 2905-2909; Dec. Dig. § 692.* 5 Va.-W. Va. Enc. Dig. 377; 14 Va.-W. Va. Enc. Dig. 420; 15 Va.-W. Va. Enc. Dig. 361.]

9. Trial (§ 260*)—Instructions—Request to Charge.—In an action against defendant as indorser or guarantor of certain notes executed by defendant's father, since deceased, to plaintiff bank, instructions given held sufficient and to cover certain requests to charge.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 651-659; Dec. Dig. § 260.* 7 Va.-W. Va. Enc. Dig. 714; 14 Va.-W. Va. Enc. Dig. 562; 15 Va.-W. Va. Enc. Dig. 512.]

Error to Circuit Court, Rockingham County.

Action by the First National Bank of Broadway against Sidney L. Bowman. Judgment for plaintiff, and defendant brings error. Affirmed.

Rudolph Bumgardner, of Staunton, and *Conrad & Conrad*, of Harrisonburg, for plaintiff in error.

Chas. Winfield, of Broadway, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.